

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(BY HYBRID MODE)

Original Application No. 343/2021

Madhura Rajesh Tawde

Applicant

Versus

State of Maharashtra

Respondent(s)

Date of hearing: 15.03.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Madhura Tawde, Applicant in Person

Respondent(s): Mr. Pravin Dasade, Principal Secretary, Environment & Climate Change & Mr. Abhey Pimpkar, Director, Environment & Climate Change with Mr. Mukesh Verma, Advocate MCZMA & MPCB

ORDER

1. Grievance in this application is for remedial action against damage to the environment in Mumbai city near coastal road at Wadala to Mahul, close to Chembur to CST freeway by adding debris on the salt pan, making island out of it and encroaching the same, affecting the mangroves which are important for Mumbai city. Unauthorized structures are against CRZ Regulations issued under Environment (Protection) Act, 1986.

2. Vide order dated 15.12.2021, the Tribunal sought a factual and action taken report from a six-member joint Committee of Maharashtra Coastal Zone Management Authority (MCZMA), CPCB, State PCB, SEIAA, Maharashtra, BMC and the concerned District Magistrate.

3. The matter was last considered on 28.09.2022 in the light of report of joint Committee dated 26.09.2022. Finding serious violations of CRZ Notification, 2019 by illegal encroachments, dumping of C&D waste and damage to the mangroves, the Tribunal directed the State Coastal Zone Management Authority to prepare a time bound action plan for remedial action to remove unauthorized dumping of waste, encroachments and restoration of mangroves. Action was also directed to be taken by Salt Commissioner, Mumbai to be overseen by Principal Secretary, Environment Department, Maharashtra and NCZMA.

4. Relevant extracts from order of the Tribunal are reproduced below:-

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3. *In pursuance of above, report of the joint Committee has been filed on 26.09.2022 by the State PCB with following observations, conclusion and recommendations:*

“3.0 Observations and findings

This report is outcome containing factual and action taken report of the said joint committee based on the meetings of the joint committee, information received from concerned agencies viz. Office of the Dy. Salt Commissioner and MCZMA through MPCB, followed by site inspection and subsequent discussions of the joint committee. The observations & findings of the joint committee are given as below.

- i. The alleged areas as per Hon'ble NGT order i.e. area near costal road at Wadala to Mahul, close to Chembur to CST freeway is a wide area of salt pan within the jurisdiction of F-North / M-West Ward of MCGM, Mumbai.*
- ii. As per the preliminary information gathered during joint committee inspection dated 11/03/2022, prima-facie the said salt pan is a private land situated at C.S.no. 144 & 145, operated by Shri Garodia and it has spread over about 100 to 110 acres. Wherein, at C.S.no. 144, majority of the area has been encroached by slum dwellers by constructing houses made of brick masonry and cement roofing sheets. Besides the aforesaid C. S.no. 144, majority of the area has also been encroached by slum dwellers at C. S. no. 117 (reportedly land belonging to Govt. of Maharashtra).*
- iii. As per the information provided by Dy. Salt Commissioner, Mumbai vide letter dated 25/08/2022, land bearing C.S. no. 144 & 145 under Hormoz Salt*

Works are owned by the Govt. of India. However, the aforesaid C.S. nos. are being operated by the salt manufacturers and as per the aforesaid letter dated 25/08/2022, an eviction proceeding against the salt manufacturers under provisions of Public Premises Act, 1971 is pending before the Estate Officer of Dy. Salt Commissioner's office since 2013.

- iv. It is observed that along the periphery of slat pan at C. S. no. 145, dense mangroves have been spread. However, the operator of slat pan/salt manufacturer i.e. Shri Garodia has constructed a huge bund (app. 5 feet height & 10 feet width, made of unprocessed C&D waste) between the dense mangrove area and salt pans. It was informed that C&D waste reportedly generated from South Mumbai is being dumped by the private parties upon obtaining consent of operator of salt pan. However, no documentary evidences for prior consent for dumping/utilization of C&D waste were produced to the joint committee. It was further informed to the joint committee that such bund has been constructed to prevent intrusion of creek water into salt pan from adjacent creek, without construction of such bund the intrusion of creek water may causes flooding and also significantly affects the quality of salt in the salt pans.*
- v. As per the information provided by the Dy. Salt Commissioner, Mumbai vide letter dated 25/08/2022, the operator of slat pan/salt manufacturer has not obtained permission from the Dy. Salt Commissioner's Office to carry-out repair or maintenance of the salt work outer bund. Further, it was also informed by the Dy. Salt Commissioner, Mumbai that no permission was granted to the operator of slat pan/salt manufacturer or also no such permission may not be required for regular repair or maintenance of the outer embankment of salt works.*
- vi. Further, it is observed from the reply submitted by the Dy. Salt Commissioner, Mumbai vide letter dated 27/04/2022 to the Director, Vanashakti (w.r.t. the representation made by Vanashakti regarding massive dumping of debris on wetlands, mangroves and salt pans at Wadala, Mumbai) that bunds located in the alleged area of about 1 km long was damaged due to Taukte Cyclone in May, 2021. Accordingly, the operator of slat pan/salt manufacturer has carried-out repairing activities by dumping debris in order to prevent intrusion of sea into salt pans water during high tides.*
- vii. Maharashtra Coastal Zone Management Authority, Department of Environment, Govt. of Maharashtra has uploaded the approved CZMP of Mumbai City and Mumbai Suburban, 2019 in their website, which is as per the Coastal Regulation Zone Notification, 2019 The*

approved CZMP of the area under reference is given at **Annexure-5** for kind reference and the copy of the same is available at <https://mczma.ciov.in/sites/default/files/CZMP%2076.01>

- viii. The area under reference i.e. C.S. no. 145 was superimposed on the approved CZMP of Mumbai City and Mumbai Suburban, 2019 prepared by the MCZMA. Copy of superimposed CZMP of Mumbai City and Mumbai Suburban, 2019 is given at **Annexure-6** for kind reference. Based on the analysis and superimposition of CZMP, it is observed that the aforesaid C.S. no. 145, where salt harvesting is being done falls under CRZ-IB as per the CRZ Notification, 2019. Further, as per s. no. (xvii) of section 5.1.2: CRZ-I B - The inter tidal areas of the CRZ Notification, 2019; salt harvesting and associated facilities are being regulated or permissible in the CRZ-I B areas. Also, based on the analysis and superimposition of CZMP, it is observed that the existing bund (along the periphery of slat pan at C. S. no. 145) which is repaired & augmented by dumping C&D waste, falls within the 50 m mangrove buffer zone i.e. CRZ-I A as per the CRZ Notification, 2019. Further, 5.1.1 of section 5.0 of the CRZ Notification, 2019 stipulates about regulation of permissible activities in CRZ-IA; wherein certain activities shall be permitted like laying of pipelines, transmission lines, conveyance systems or mechanisms and construction of road on stilts, etc. that are required for public utilities. However, the aforesaid section of CRZ Notification, 2019 doesn't specify about repair & augmentation of existing bunds. Whereas, only in CRZ-I B-The inter tidal areas, bunding activities are permitted. Nevertheless, carrying out repairing & augmentation works of existing bund (by dumping unprocessed C&D waste & debris), falling within 50 m mangrove buffer zone without prior permission is not justifiable and also not a permitted activity as per CRZ Notification, 2019.
- ix. As informed by the operator of slat pan/salt manufacturer, total seven bore-wells have been installed within the slat pan area for extraction of slat laden ground water and subsequent channelizing into salt pans for manufacturing/harvesting slat.
- x. Some of the photographs taken during the joint committee inspection is given at **Annexure-7** for kind ready reference.

4.0 Conclusions

The alleged area i.e. C.S. no. 144 & 145 is under M/s Hormoz Salt Works are owned by the Govt. of India. However, the aforesaid C.S. no. 145 is being operated by the salt

manufacturer for harvesting of salt. Presently, an eviction proceeding against the salt manufacturers under provisions of Public Premises Act, 1971 is pending before the Estate Officer of Dy. Salt Commissioner's Office since 2013. Based on the analysis and superimposition of CZMP, it is observed that the aforesaid C.S. no. 145, where salt harvesting is being done falls under CRZ-IB as per the CRZ Notification, 2019. Further, as per s. no. (xvii) of section 5.1.2: CRZ-I B - The inter tidal areas of the CRZ Notification, 2019; salt harvesting and associated facilities are being regulated or permissible in the CRZ-I B areas.

Also, based on the analysis and superimposition of CZMP, it is observed that the existing bund (along the periphery of slat pan at C. S. no. 145) which is repaired & augmented by dumping C&D waste, falls within the 50 m mangrove buffer zone i.e. CRZ-I A as per the CRZ Notification, 2019. The activities regulated under CRZ-I A of the CRZ Notification, 2019 doesn't specify about repair & augmentation of existing bunds. Whereas, only in CRZ-I B-The inter tidal areas, bunding activities are permitted.

Damage of bunds reportedly due to Taukte Cyclone in May, 2021, the repairing activities is carried-out by the operator of slat pan/salt manufacturer by dumping C&D waste & debris in order to prevent intrusion of sea into salt pans water during high tides.

During site inspection no mangroves were observed towards landward side i.e. in salt pan area (CRZ-I B). However, dense mangroves are observed towards creek-ward side i.e. in close proximity to the existing outer bund of salt pan. Operator of slat pan/salt manufacturer has not obtained permission from the Dy. Salt Commissioner's Office to carry-out repair or maintenance of outer bund of the salt works. Nevertheless, carrying out repairing & augmentation works of existing bund (by dumping unprocessed C&D waste & debris), falling within 50 m mangrove buffer zone i.e. CRZ-1 A, without prior permission is not justifiable and also not a permitted activity as per CRZ Notification, 2019.

As per the annual report on Construction and Demolition Waste Management Rules, 2016 for the state of Maharashtra (2020-2021) published by MPCB that MCGM, Mumbai generated 34,58,548 MT of C&D waste during calendar year January to December, 2020. Further, based on the aforesaid report it is observed that MCGM doesn't have designated C&D waste processing facility for handling & processing of C&D waste and the aforesaid quantity of 34,58,548 MT of C&D waste was disposed by landfilling without processing or filled in low lying area. In absence of such environmentally sound C&D waste processing facility, undue/unauthorized utilization/disposal of unprocessed C&D waste in low lying areas, CRZ areas or in any other areas cannot be ruled-out, as it is evident from the present matter; where the unprocessed C&D waste is being utilized for repairing & augmentation activities of outer bunds of slat works/pan, which is falling within the 50 m mangrove

buffer zone as per the superimposed map of the area under reference.

Whereas the C.S. no. 144 is being encroached by slum dwellers by reclaiming the land and constructing houses made of brick masonry & cement roofing sheets. Also, some temporary structures are raised in south-western side of C.S. no. 144 by the operator of slat pan/salt manufacturer by reclaiming the land with dumping C&D waste & debris. Similarly, the C.S. no. 117 belongs to Govt. of Maharashtra, is also being encroached by slum dwellers by reclaiming the land. Based on the analysis and superimposition of CZMP, it is observed that C.S. no. 144 and 117 falls under CRZ-II, where certain activities are permitted as per section 5.2 of 5.0 of the CRZ Notification, 2019, stipulates about regulation of permissible activities in CRZ. The construction of buildings for residential purposes, schools, hospitals, institutions, offices, public places, etc. shall be permitted only on the landward side of the existing road, or on the landward side of existing authorised fixed structures is permitted w.r.t. subject to the local town and country planning regulations as applicable from time to time, and the norms for the Floor Space Index (FSI) or Floor Area Ratio (FAR) prevailing as on the date of Notification.

5.0 Recommendations

- (a) *For violations of provisions of CRZ Notification, 2019 In view of the aforesaid violations of:*
- i. *Dumping C&D waste/debris for carrying out repairing & augmentation works of existing bund, falling within 50 m mangrove buffer zone i.e. CRZ-I A. The operator of salt pan/salt manufacturer under the supervision of Office of Dy. Salt Commissioner, Mumbai and F(N)/ M(W) Ward of MCGM may be directed to remove the unauthorized dumping of C&D waste and shall dispose the same in an environmentally sound manner in the nearby C&D waste processing facility at Navi Mumbai or other facility, as appropriate.*
- (b) *Dy. Salt Commissioner, Hon'ble Collector Mumbai / Mumbai Suburban & F(N)/ M(W) Ward of MCGM may take appropriate action and also to remove illegal encroachments (construction of houses & other temporary structures) at C. S. no. 144 & C. S. no. 117, which is a CRZ-II area, so as to ensure the restoration of the aforesaid area to its original condition.*
- (c) *MCGM may be directed to submit a time bound action plan along with budgetary estimate for selection of appropriate site as per Schedule-I of the Construction and Demolition Waste Management Rules, 2016 and also to establish adequate C&D waste processing facility for handling, processing & disposal of C&D waste as per Rule 6 of the Construction and Demolition Waste Management Rules, 2016.*

(d) Till such facility is established w.r.t. (c) as above, MCGM to issue detailed directions with regard to proper collection, management of C&D waste within its jurisdiction in accordance with the provisions of aforesaid Rules. Also, to ensure that such waste should be processed only at nearby processing facility. Further, MCGM should increase surveillance activities to abate undue/unauthorized disposal of C&D waste at sensitive areas viz. CRZ areas, river banks, etc. Office of the Dy. Salt Commissioner, Mumbai should ensure that no undue/unauthorized dumping of C&D wastes in the areas under their jurisdiction may not be permitted in near future, as in the present case the alleged area falls within 50 m mangrove buffer zone i.e. CRZ-I A, as per CRZ Notification, 2019. However, in case such undue/unauthorized dumping is observed/reported through public grievances etc., such instances may be immediately brought to the notice of MCGM for taking appropriate penal action against violators.”

4. We have heard learned Counsel for the State PCB. The report shows that there have been unchecked violations by way of encroachments, construction of bund, other illegal constructions and dumping of debris in violation of environmental norms and to the detriment of environment, particularly mangroves. However, the Committee has not indicated the violators of CRZ Notification and also not mentioned the action taken or proposed against such violators.

5. The recommendations in the report to remove unauthorized dumping of waste, removing illegal encroachments and restoration of the area have to be accepted. MCGMA has to prepare a time bound action plan with budgetary support in the matter and has to issue directions for scientific handling of waste. The Salt Commissioner, Mumbai has also to take necessary action in the matter. This needs to be overseen by the Principal Secretary, Environment, Maharashtra. NCZMA has also to oversee compliance in terms of Notification dated 11.05.2022 issued by the MoEF&CC. The NCZMA and Principal Secretary, Environment, Maharashtra may file action taken reports after coordinating with concerned authorities, particularly giving progress in encroachments removed, waste collected and sent to authorized processing plant, restoration of degraded/encroached area and plan to set up C&D processing plants and other associated actions within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”

5. In pursuance of above, status report has been filed by the joint Committee on 13.02.2023 giving status of action as follows:-

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Sr No	Organization	Directions issued	Status of Action
1	MCGM	a) MCGM to immediately take	The MCGM vide letter dated 29.12.2022 submitted its reply which states that:

		<p>necessary action of removal of encroachments/ illegal constructions on subject land, for which, ward offices of F/ N and M/ W should act in coordination along with office of Salt Commissioner.</p> <p>b) MCGM to formulate action plan along with budgetary allocation for immediate collection of C&D waste from the subject land. MCGM should sent C&D waste from the subject land to Navi Mumbai C&D waste processing facility or any other nearby facility, until the C&D waste processing facility is set up by the MCGM for Mumbai City and necessary charges for waste processing shall be borne by MCGM as per order of Hon'ble NGT. Action plan should also include the time line for setting up of C&D waste facility within MCGM area.</p> <p>c) Action taken report be submitted to the Department at the earliest.</p>	<p>t) The said plots ownership is with Salt Commissioner. The said plot given to M/s Harmor Salt Works on lease / rental basis. Hence the protection of land is the responsibility of owner/ occupier / tenant of the land, by deploying security guard or by constructing protection wall along the periphery of the land</p> <p>MCGM may help to remove or to process the C & D waste materials from the said location if the fund and land were made available by owner of the land</p> <p>y) Also as the ownership of land pertains to salt commissioner, MCGM is not authorized to remove the structure from the land of salt Commissioner. In view of above, MCGM may help to remove the authorized structure if salt commissioner takes leadership for removing the same.</p> <p>MCGM has submitted also an additional reply in the matter. Pertaining to removal / processing of C&D waste, the reply of MCGM states as follows:</p> <p>The recommendation of the Committee for the removal of unauthorized C& waste dumped at the Salt pan plot is as following.</p> <p>“Dumping C&D waste/debris for carrying out repairing & augmentation works of existing bund, falling within 50 m mangrove buffer zone i.e. CRZ – IA. The operator of salt pan / salt manufacturer under the supervision of officer of Dy. Salt Commissioner, Mumbai and F(N)/M(W) ward of BMC may be directed to remove the unauthorized dumping of C&D waste and shall dispose the same in an environmentally sound manner in the nearby C&D waste processing facility at Navi Mumbai or other facility, as appropriate”.</p> <p>However its seems that above mentioned recommendation may not have been considered, as intended by committee as, the C&D waste material dump at the salt pan plot is to be removed by operator of salt pan/ salt manufacturer under the supervision of office of Dy. Salt Commissioner, Mumbai and F(N)/M(W) ward of BMC. Therefore the necessary arrangement required for removal of C&D material has to be done by the operator of salt pan / salt manufacturer only. BMC is ready for any supervision / coordination required for the same as recommended by the committee.</p> <p>Furthermore it is to be informed that currently there are two nos of C&D waste processing Plants operational in and in the vicinity of Mumbai vis</p>
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2	District Collector, Mumbai City and Suburban	Office of District Collectors to hereby directed to take immediate action of removal of encroachments / authorized structures on Survey No. 117 which belongs to State of	<p>REPLY OF OFFICE OF DISTRICT COLLECTOR, CITY:</p> <p><i>The Office of Deputy Collector (Encroachment), old custom House, Fort, Mumbai vide letter dated 6.2.2023 submitted the status of action taken. The said report states as follows:</i></p>

		<p>Maharashtra on or before 10th November, 2022.</p> <p>Action taken report be submitted to the Department at the earliest.</p>	<ul style="list-style-type: none"> Plan for removal of encroachment on subject Govt land bearing CS No. 117 (pt) was staged on 10.1.2023 by the office of Deputy Collector (Encroachment). Accordingly, on 10.1.2023, 55 number of illegal constructions were removed by the office of Deputy Collector (Encroachment) with the joint help of F/ North ward of MCGM and local police station. Photographs of the said land are attached with the report. Display board is put on site warning for action against the illegal constructions on the land. Moreover, 3 pakka and 3 kaccha illegal constructions which could not be removed on 10.1.2023, were removed on 6.2.2023. Photographs of the same are attached with the report. On CS No. 117(pt), Annexure has been issued on 8.7.2010 pertaining to Slum Rehabilitation Scheme of Aman Sagar Sahakari Housing Society. On North side of CS No. 117(pt), at Shantinagar, there is construction of SamajMandir built using the fund from Local MLA shri Captain Tamil Selvan. Regarding confirmation about the said construction, office of Superintendent, Land Records and District Planning Officer, Mumbai has been asked. <p>Copy of reply of Salt Department is attached as Annexure IV</p> <p>DELIBERATIONS:</p> <p>Principal Secretary, Env&CC Department noted the action taken by the Office of District Collector, Mumbai city. He instructed that adequate measures need to be taken by the office of District Collector to protect the Govt land from encroachments in future.</p>
3	Office of Salt Commissioner	<p>a) Salt Commissioner should extend support and act in coordination with MCGM and District Collector, Mumbai City to immediately take necessary action of removal of encroachments/ illegal constructions on subject land</p> <p>b) Salt Commissioner should not allow the salt pan operators / salt manufactures to allow the collection / dumping of the C&D waste on salt pan land. Deputy Salt Commissioner should issue</p>	<p>REPLY OF OFFICE OF SALT DEPT:</p> <p>Office of Deputy Salt Commissioner submitted its reply on 23.12.2022 in the matter. The said reply states that:</p> <p>The office has issued letter No. S-11011(30) Salt/84/5430-36 dated 29.10.2022 (Annexure No.1) to the salt manufactures of Hormoz salt works under CS No., 144 & 145 of Salt Pan Division, Wadala. To the said letter, a reply dated 18.11.2022 (Annexure No.2) has been given by the salt manufacturers of the salt works. The salt manufacturers have visited this office on 21.12.2022 and have assured that no such further attempt of dumping in salt pan lands will be undertaken by them. They have further informed that the land mafias in the area are dumping C & D waste materials during night hours in salt pan lands with motive to grab / encroach upon land and it is becoming very difficult to prevent such isolated attempts by these land mafias. Despite shortage of manpower, the Salt Department is making all efforts to prevent encroachments in salt pan lands.</p>

		<p>notices to salt salt pan operators / salt manufactures for the same.</p> <p>c) Action taken report be submitted to the Department at the earliest.</p>	<p>It is further informed that the land under CS No. 117 of Wadala Salt Pan Division is owned by Government of Maharashtra and encroachments are mainly located on this lands. The encroachments are spilling over to Salt Department land under Hormoz salt works bearing CS No. 144 & 145 which is adjacent to land bearing CS No. 117. We are not aware of any initiative / action taken either by the Municipal Corporation of Greater Mumbai OR the District Collector Mumbai as per the order dated 28.09.2022 of the Hon'ble NGT.</p> <p>Copy of reply of office of Deputy Collector, Mumbai city t is attached as Annexure V</p> <p>DELIBERATIONS:</p> <p>Principal Secretary, Env&CC Department noted the reply and instructed Salt Department to provide all necessary assistant to MCGM and District Collector office in order to comply with directions of the Hon'ble NGT. He pointed out that as per Hon'ble NGT order, "The Salt Commissioner, Mumbai has also to take necessary action in the matter"</p> <p>Therefore, it is mandatory for the office of the Salt Commissioner Salt Commissioner should extend support and act in coordination with MCGM and District Collector, Mumbai City to comply with the order of Hon'ble NGT. Further, Salt Department need to come with practical measures to prevent encroachment and dumping on the land in future.</p>
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6. From the above, it is seen that even after expiry of more than five months, action taken is not adequate. C&D waste has not been removed and illegal encroachments still remain. There appears to be lack of inter-departmental coordination and failure at higher level to remedy the situation by adopting stringent approach. In this process, damage to the coast and environment continued. Such sorry state of affairs needs to be handled with iron hand and rigorously monitored on continuous basis at higher level, making the officers accountable for their inaction/negligence.

7. The ACS, Environment present in person by video conferencing has now assured the Tribunal that within three months the remedial measures will be completed which will include removing all encroachments, lifting of C&D waste for its appropriate processing and revival of damaged mangrove

plantation. Let the same be done and compliance report filed on or before June 30, 2023 with the Registrar General, NGT by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If any further direction is found necessary, he may place the matter before the Bench.

Subject to above, the Application is disposed of.

A copy of this order be forwarded to Chief Secretary, Maharashtra, Salt Commissioner, Mumbai, MCZMA and NCZMA by email for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

March 15, 2023
Original Application No. 343/2021
AB